

Application No.: 09/988,455

2000P20541US  
Ralph GRITZBACH *et al.***REMARKS/ARGUMENTS****RECEIVED  
CENTRAL FAX CENTER*****Claim Status*****JUN 10 2008**

After entry of this Amendment, Claims 1 – 5, 7, 9, 10, 12, 13 and 16 – 18 are pending in this application. By this Amendment, Claims 1 and 12 are amended. No new matter is added.

***Initial Remarks***

Even though the Examiner does not expressly state so, it appears the Examiner does not interpret some claim limitations, such as “represent each local monitor” and “local monitor,” in the sense of the claimed invention. As discussed below, it may be the Examiner interprets “local monitor” as a medical and/or measurement device instead of a display. If this is the case, Applicants respectfully request the Examiner to notify Applicants accordingly.

***Claim Rejections – 35 U.S.C. § 103***

The Examiner rejects Claims 1 – 5, 7, 9, 10, 12, 13 and 16 – 18 under 35 U.S.C. § 103(a) as being unpatentable over Peifer (U.S. Pat. No. 5,987,519), Oba (U.S. Pat. No. 5,038,800), Zaitso (U.S. Pat. Publication No. 2002/0013551), Peddicord (U.S. Pat. No. 6,402,691), Surwit (U.S. Pat. No. 6,024,699) and further in view of David (U.S. Pat. No. 5,544,649). As to Claim 1, the Examiner argues as follows:

1. Peifer fails to expressly teach a data interface receiving data from the diagnosis instruments located at remote patient sites. The Examiner cites Surwit as evidence that this feature is well known in the art.
2. Peifer fails to expressly teach displaying measurement data and/or diagnosis data on a local monitor. The Examiner cites Oba as evidence that this feature is well known in the art.
3. Peifer fails to expressly teach a display unit operatively coupled to the data processor and configured to represent each local monitor simultaneously, wherein a number of represented local monitors corresponds to the predetermined number of diagnosis instruments, and wherein the simultaneous representations of local monitors on the display unit allow the central operator to monitor and control the diagnosis instruments during

patient examinations. The Examiner cites **Peddicord** as evidence that this feature is well known in the art.

4. **Peifer** fails to expressly teach entering control instructions for actively controlling the selected diagnosis instrument by the central operator through the input unit to enable active intervention in real time by the central operator during a patient's examination. The Examiner cites **Zaitsu** as evidence that this feature is well known in the art.
5. **Peifer** fails to expressly teach a display unit that displays data in the same way as the respective monitor. The Examiner cites **David** as evidence that this feature is well known in the art.

The Examiner concludes that it would have been obvious to include the teachings of **Surwit**, **Oba**, **Zaitsu**, **Peddicord** and **David** to **Peifer's** device. The Examiner argues correspondingly regarding independent Claim 12. Applicants respectfully traverse.

Notwithstanding the propriety of the present rejections, Claim 1 is amended, as set forth in the above listing of claims, to further emphasize that the system includes a plurality of data interfaces, that each one is operatively coupled to the data processor and configured to receive data from one of the diagnosis instruments in real time, and that each diagnosis instrument is located at a different remote patient site. Independent Claim 12 is amended correspondingly.

No new matter is added by these amendments because Fig. 1 of the present application shows that the system includes data interfaces S1 – S4, and that each one is operatively coupled to the data processor DV and configured to receive data from one of the diagnosis instruments G1 – G4. Each diagnosis instrument G1 – G4 is located at a different remote patient site, as described, for example, in paragraph [0010].

The combination of the cited references does not disclose or suggest all limitations of amended Claim 1. The following discussion focuses on the modifications of Claim 1 made by this Amendment. For the sake of that discussion, it is assumed that **Surwit** teaches receiving data from a remote patient site in real time, and that **Oba** teaches displaying data on a local monitor. However, Applicants maintain that **Oba** does not teach the simultaneous display of representations of local monitors, which are located at different locations. Further, Applicants maintain that

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Zaitsu's pump monitoring system is not a diagnosis instrument, as required by Claim 1, but a system for treating a patient.

Peifer discloses with reference to Fig. 1 a telemedicine system 10 having central monitoring stations 11 that are in communication via a network 16 with patient monitoring stations 18. (Col. 5, lines 28 – 31.) Peifer discloses that each patient monitoring station 18 includes a videoconferencing interface device 26, a medical device interface 24 and medical devices 28 – 30 (see, col. 5, line 65, to col. 6, line 12), and that medical device data is encapsulated in packets and output onto the network 16. As to the central monitoring station 11, however, Peifer teaches that it is essentially the same as the patient monitoring station 18, with the exception that the central monitoring station 11 does not have a medical device interface and does not receive data for controlling medical devices. (Col. 9, lines 6 – 14.) As the central monitoring station 11 is coupled to the network 16 to receive the packets, apparently via an interface to the network 16, Peifer does not disclose a plurality of data interfaces, wherein each one is configured to receive data from one of several diagnosis instruments.

In addition to the limitations the Examiner already identified as missing in Peifer, the foregoing shows that the subject matter of amended Claim 1 differs even more from Peifer's system. Absent modifications based on unacceptable hindsight, Peifer's system is not suitable for allowing a central operator to monitor and control a number of diagnosis instruments, and to actively intervene at a selected patient examination, as taught by the present invention, due to the differences between the structure of the claimed system and that of Peifer's system. Again absent unacceptable hindsight, there is no reason why one of ordinary skill in the art would abandon Peifer's structure having an interface to the network 16, and to switch to a more complex (and, hence, more expensive) structure having a plurality of data interfaces, as defined in amended Claim 1.

The Examiner cites Peddicord as disclosing a display unit that represents each local monitor simultaneously, wherein the simultaneous representations allow the central operator to monitor and control the diagnosis instruments during patient examinations. As previously discussed, Peddicord, however, does not disclose that the workstations 66 monitor or control the remote monitoring units 10 during patient examinations, as required by amended Claim 1. Rather, vital sign data is first stored

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in a network storage unit 14 for up to 72 hours. (Col. 4, lines 39 – 45.) Then, i.e., long after a patient examination, the network storage unit 14 transfers the vital sign data to a database server 56. (Col. 4, lines 50 – 56.) Hence, Peddicord teaches collecting data and monitoring of the collected data, but not the above-cited limitations of amended Claim 1.

Moreover, the displays 28 of the remote monitoring units 10 at the patients' homes display each measurement result individually after a measurement, e.g., a patient's weight as soon as the patient steps on a scale. (Col. 6, lines 17 – 26, and 60 – 62; see also Figs. 5a, step 94, and Fig. 5b, step 128.). The workstations 66, however, display multiple patients on the display of the workstations 66 such that medical personnel can monitor a number of patients at a time. (Col. 10, lines 4 – 11.) Even though the remote monitoring units 10 have displays 28, Peddicord does not disclose that the workstations 66 represent each display 28 simultaneously.

Even if the Examiner interprets the limitation "represent each local monitor simultaneously" to read on Peddicord's display of multiple patients on the displays of the workstations 66 (which Applicants believe is not proper), Peddicord still does not disclose or suggest displaying data in the same way as the respective local monitor, as required in Claim 1.

In this regard, Applicants note that Claim 1 recites that a diagnosis instrument displays data on a local monitor. Should the Examiner interpret "local monitor" as a medical and/or measurement device instead of a display, Applicants respectfully request the Examiner to notify Applicants accordingly. Applicants are prepared to amend the claims to replace "local monitor" with "local display."

The Examiner cites David as teaching a display unit that displays data in the same way as the respective monitor. David discloses with reference to Fig. 5 that a nurse 112 can call up on the TV screen 88 a patient 16 of interest, that the patient's ECG or cardiac activity can be displayed on displays 78 and 82, respectively, and that the patient's oximetry data may be displayed on a separate display 154. (Col. 13, lines 38 – 54.) As David displays the data of only one patient at a time, David does not disclose a display unit that represents each local monitor simultaneously, and displays the data in the same way as the respective local monitor.

In view of the foregoing and the previously submitted arguments, Applicants submit that Peifer, Surwit, Oba, Zaltsn, Peddicord and David do not disclose or

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suggest each and every limitation recited in amended Claim 1. Hence, even a combination of these references does not disclose or suggest a system that allows a central operator (e.g., a medical doctor) to monitor and control a number of diagnosis instruments, and to actively intervene at a selected patient examination. The medical doctor is, therefore, virtually present at a remote diagnosis instrument during a patient's examination, and may actively intervene in the events on site. The cited references, alone or in combination, do not teach such a system. The above discussion applies equally to independent Claim 12.

The cited references, therefore, do not render the subject matter of amended Claims 1 and 12 obvious. Applicants respectfully encourage the Examiner to reconsider Peifer, Surwit, Oba, Zaitso, Peddicord and David in view of the above arguments and amended Claims 1 and 12, and to pass amended Claims 1 and 12 to allowance.

Claims 2 - 5 and 7, 9 and 10 depend from amended Claim 1, and Claims 13 and 16 - 18 depend from amended Claim 12. Each dependent claim adds additional inventive features to the subject matter of the respective independent Claim 1 or 12. The above arguments regarding Claims 1 and 12 are repeated herewith for each one of the dependent claim. Accordingly, each dependent claim is separately patentable over the cited references. Applicants respectfully request the Examiner to pass Claims 2 - 5, 7, 9, 10, 13 and 16 - 18 to allowance.

#### Summary of response

Applicants have responded to the rejections in the April 15, 2008 Office Action by presenting the foregoing amendments and arguments. Applicants respectfully submit that Claims 1 - 5, 7, 9, 10, 12, 13 and 16 - 18 are in condition for allowance. Applicants respectfully request the Examiner to withdraw all rejections and to pass this application to the issue process.

#### Request for telephone interview

The undersigned has made a good faith effort to respond to the objection and to all of the rejections raised in the Office Action so as to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call the undersigned attorney of record at the telephone number listed below in order to resolve such issues promptly.

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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 502464 referencing attorney docket number 2000P20541US.

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Respectfully submitted,

Date: 6/10/08

  
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